



## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 80

[EPA-HQ-OAR-2020-0725; FRL-10021-95-OAR]

RIN 2060-AV07

### Extension of 2019 and 2020 Renewable Fuel Standard Compliance and Attest Engagement Reporting Deadlines

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is finalizing modifications of certain compliance dates under the Renewable Fuel Standard (RFS) program. First, EPA is extending the RFS compliance deadline for the 2019 compliance year and the associated deadline for submission of attest engagement reports for the 2019 compliance year for small refineries. The new deadlines are November 30, 2021, and June 1, 2022, respectively. Second, EPA is extending the RFS compliance deadline for the 2020 compliance year and the associated deadline for submission of attest engagement reports for the 2020 compliance year for obligated parties. The new deadlines are January 31, 2022, and June 1, 2022, respectively. Finally, EPA is extending the deadline for submission of attest engagement reports for the 2021 compliance year for obligated parties to September 1, 2022.

**DATES:** This final rule is effective on [INSERT DATE OF FILING ON PUBLIC INSPECTION BY THE OFFICE OF THE FEDERAL REGISTER].

*Operational dates:* For operational purposes under the Clean Air Act, this final rule is effective as of March 23, 2021.

**ADDRESSES:** EPA has established a docket for this action under Docket ID No. EPA-HQ-OAR-2020-0725. All documents in the docket are listed on the <https://www.regulations.gov> website. Although listed in the index, some information is not publicly available, e.g., CBI or

other information whose disclosure is restricted by statute. Certain other material is not available on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available electronically through <http://www.regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:** For questions regarding this action, contact Lauren Michaels, Office of Transportation and Air Quality, Assessment and Standards Division, Environmental Protection Agency, 2000 Traverwood Drive, Ann Arbor, MI 48105; telephone number: (734) 214-4640; email address: [michaels.lauren@epa.gov](mailto:michaels.lauren@epa.gov).

**SUPPLEMENTARY INFORMATION:**

*Dates.* Section 553(d) of the Administrative Procedure Act (APA), 5 U.S.C. chapter 5, generally provides that rules may not take effect until 30 days after they are published in the **Federal Register**. EPA is issuing this final rule under CAA sec. 307(d), which states, “The provisions of section 553 through 557 . . . of Title 5 shall not, except as expressly provided in this section, apply to actions to which this subsection applies.” Thus, section 553(d) of the APA does not apply to this rule. EPA is nevertheless acting consistently with the policies underlying APA section 553(d) in making this final rule effective upon signature. The purpose of this APA provision is to “give affected parties a reasonable time to adjust their behavior before the final rule takes effect.” *Omnipoint Corp. v. Fed. Commc’n Comm’n*, 78 F.3d 620, 630 (D.C. Cir. 1996); see also *United States v. Gavrilovic*, 551 F.2d 1099, 1104 (8th Cir. 1977) (quoting legislative history). However, when an agency grants or recognizes an exemption or relieves a restriction, affected parties do not need a reasonable time to adjust because the effect is not adverse. Thus, APA section 553(d) allows an effective date less than 30 days after publication for any rule that “grants or recognizes an exemption or relieves a restriction” (see 5 U.S.C. 553(d)(1)). An accelerated effective date may also be appropriate for good cause pursuant to APA section 553(d)(3) where an agency can “balance the necessity for immediate implementation against principles of fundamental fairness which require that all affected persons

be afforded a reasonable amount of time to prepare for the effective date of its ruling.”

*Gavrilovic*, 551 F.2d at 1105.

EPA has determined that the regulatory amendments to 40 CFR part 80, subpart M, are operational upon signature because they relieve a restriction by extending the 2019 and 2020 compliance deadlines (and associated attest engagement report deadlines) ahead of the otherwise imminent 2020 RFS compliance deadline of March 31, 2021, thereby providing obligated parties with additional time to demonstrate compliance. There is additionally good cause for immediate implementation of these provisions because pending litigation in the Supreme Court makes it necessary for this rule to go into effect prior to March 31, 2021, to ensure regulated entities do not begin complying with removed regulatory obligations. Among other actions, EPA is today extending the regulatory deadline for small refineries to comply with their 2019 RFS obligations from March 31, 2020, to November 30, 2021, because litigation pending before the United States Supreme Court is expected to resolve legal questions regarding some small refineries’ eligibility to receive annual exemptions from their 2019 regulatory obligations. EPA is also extending the regulatory deadline for all obligated parties to comply with their 2020 RFS obligations, from March 31, 2021, to January 31, 2022, which is required because of agency delay in promulgating future RFS compliance obligations and the corresponding impact on compliance decisions.

These actions mean any delay in the effectiveness of this final rule past March 31, 2021, would result in confusion among regulated entities regarding their compliance obligations.

*Does this action apply to me?*

Entities potentially affected by this rule are those involved with the production, distribution, and sale of transportation fuels, including gasoline, diesel, and renewable fuels such as ethanol, biodiesel, renewable diesel, and biogas. Potentially affected categories include:

<b>Category</b>	<b>NAICS<sup>1</sup> Code</b>	<b>Examples of Potentially Affected Entities</b>
Industry	324110	Petroleum refineries
Industry	325193	Ethyl alcohol manufacturing
Industry	325199	Other basic organic chemical manufacturing
Industry	424690	Chemical and allied products merchant wholesalers

Industry	424710	Petroleum bulk stations and terminals
Industry	424720	Petroleum and petroleum products merchant wholesalers
Industry	221210	Manufactured gas production and distribution
Industry	454319	Other fuel dealers

1 North American Industry Classification System (NAICS).

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. This table lists the types of entities that EPA is now aware could potentially be affected by this action. Other types of entities not listed in the table could also be affected. To determine whether your entity would be affected by this action, you should carefully examine the applicability criteria in 40 CFR part 80. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

### **Outline of this Preamble**

#### **I. Background and Extension of Deadlines**

- A. Extension of the 2019 RFS Compliance Deadline for Small Refineries
- B. Extension of the 2020 RFS Compliance Deadline for All Obligated Parties
- C. Corresponding Attest Engagement Report Deadlines

#### **II. Statutory and Executive Order Reviews**

- A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review
- B. Paperwork Reduction Act (PRA)
- C. Regulatory Flexibility Act (RFA)
- D. Unfunded Mandates Reform Act (UMRA)
- E. Executive Order 13132: Federalism
- F. Executive Order 13175: Consultation and Coordination with Indian Tribal Governments
- G. Executive Order 13045: Protection of Children from Environmental Health Risks and Safety Risks

H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

I. National Technology Transfer and Advancement Act (NTTAA) and 1 CFR Part 51

J. Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations

K. Congressional Review Act (CRA)

### III. Statutory Authority

#### **I. Background and Extension of Deadlines**

In January 2021, EPA proposed amendments to the RFS regulations to extend the deadline for obligated parties to demonstrate compliance with their 2019 and 2020 RFS obligations.<sup>1</sup> We are finalizing the amendments as proposed to extend the deadlines for small refineries to submit reports demonstrating compliance with their 2019 RFS obligations and their corresponding attest engagement reports. We are also finalizing amendments to extend the deadlines for all obligated parties to submit reports demonstrating compliance with their 2020 RFS obligations and their corresponding attest engagement reports. Finally, in response to stakeholder feedback, we are also extending the 2021 attest engagement report deadline for all obligated parties.

For small refineries, we are extending the 2019 compliance deadline in light of the continued uncertainty surrounding small refinery exemptions (SREs) under the RFS program.<sup>2</sup> We are finalizing a 2019 compliance deadline for small refineries of November 30, 2021, and an attest engagement report deadline of June 1, 2022. For the 2020 compliance year, we are extending the compliance deadline for all obligated parties because we have not yet promulgated

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<sup>1</sup> See 86 FR 3928 (January 15, 2021).

<sup>2</sup> The Renewable Fuel Standard (RFS) program, established under Clean Air Act (CAA) section 211(o), requires a certain volume of renewable fuel to replace or reduce the quantity of petroleum-based transportation fuel, heating oil, or jet fuel used in the United States. Small refineries may petition EPA annually for exemption from their RFS obligations under CAA section 211(o)(9)(B). For more information about small refinery exemptions (SREs), see <https://www.epa.gov/fuels-registration-reporting-and-compliance-help/rfs-small-refinery-exemptions>.

an annual rulemaking establishing the 2021 RFS standards. We are finalizing a 2020 compliance deadline for all obligated parties of January 31, 2022, and an attest engagement report deadline of June 1, 2022. Finally, for the 2021 compliance year, we are extending the attest engagement report deadline for obligated parties to September 1, 2022. These new deadlines are summarized in Table I.A-1 below.

Table I.A-1: Original and Revised Annual Compliance and Attest Engagement Reporting Deadlines for Obligated Parties for the 2019 (as applicable), 2020, and 2021 Compliance Years

<b>Regulated Party Category</b>	<b>Original Annual Compliance Deadline</b>	<b>Revised Annual Compliance Deadline</b>	<b>Original Attest Engagement Reporting Deadline</b>	<b>Revised Attest Engagement Reporting Deadline</b>
<b>2019 Compliance Year</b>				
Small refineries	March 31, 2020	November 30, 2021	June 1, 2020	June 1, 2022
<b>2020 Compliance Year</b>				
Obligated parties	March 31, 2021	January 31, 2022	June 1, 2021	June 1, 2022
<b>2021 Compliance Year</b>				
Obligated parties	March 31, 2022 (unchanged)		June 1, 2022	September 1, 2022

Obligated party commenters were generally supportive of our proposal to extend the compliance deadlines, although some suggested that additional compliance deadline extensions would be helpful. In contrast, biofuels industry groups suggested extensions were either not justified or excessive in length. We also received comments from stakeholders involved in the attest engagement process who provided feedback on the scope and sequencing of attest report deadline extensions. We have considered these comments, and in some cases, adjusted our regulations in response to the comments.<sup>3</sup>

*A. Extension of the 2019 RFS Compliance Deadline for Small Refineries*

The RFS regulations establish deadlines for obligated parties with renewable volume obligations (RVOs) to submit annual compliance demonstration reports to EPA, and later deadlines for the same parties to submit associated attest engagement reports. Under existing

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<sup>3</sup> Further discussion of the comments received, and our responses to them, can be found in the Response to Comments document, available in the docket for this action.

RFS regulations, obligated parties must submit compliance demonstration reports for each calendar year by March 31 of the following year, and associated attest engagements by June 1 of the following year.<sup>4</sup> In this action, we are revising certain reporting deadlines applicable to the 2019, 2020, and 2021 compliance years.

On January 24, 2020, the U.S. Court of Appeals for the Tenth Circuit issued a decision in *Renewable Fuels Association (RFA) v. EPA* invalidating several SREs granted by EPA.<sup>5</sup> The small refineries whose SREs were invalidated by the court in the *RFA* case sought rehearing from the Tenth Circuit, which was denied on April 7, 2020.<sup>6</sup> Thus, the Tenth Circuit's decision was not final until after the 2019 compliance reporting deadline had already passed on March 31, 2020. On September 4, 2020, the small refinery intervenors in that suit filed a petition for a writ of certiorari from the U.S. Supreme Court, which was granted on January 8, 2021, in *HollyFrontier v. RFA*.<sup>7</sup> Briefing in that case is ongoing, and oral argument is scheduled for April 27, 2021. The Supreme Court's decision in *HollyFrontier* has the potential to affect the availability of SREs. Due to the resulting uncertainty, we do not believe it would be appropriate to require small refineries to demonstrate compliance with their 2019 obligations until the Supreme Court renders a decision in *HollyFrontier*.<sup>8</sup>

Therefore, we are finalizing our proposed extension of the 2019 compliance deadline for small refineries. We believe that it is appropriate to do so only for small refineries because it is only the compliance requirements of these parties that would be affected by the outcome of the *HollyFrontier* case.<sup>9</sup> All other obligated parties' compliance obligations for 2019 remain the same regardless of the *HollyFrontier* decision.

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<sup>4</sup> See 40 CFR 80.1451(a) and 80.1464(d).

<sup>5</sup> *Renewable Fuels Ass'n v. EPA*, 948 F.3d 1206 (10th Cir. 2020) (*RFA*).

<sup>6</sup> Order, *RFA*, No. 18-9533 (10th Cir. Apr. 7, 2020).

<sup>7</sup> *HollyFrontier Cheyenne Refining, LLC v. Renewable Fuels Ass'n*, No. 20-472 (U.S.).

<sup>8</sup> EPA received a letter from the Small Refineries Coalition dated July 30, 2020, requesting that EPA modify the 2019, 2020, and 2021 compliance deadlines and corresponding attest engagement reporting deadlines. The letter suggests that uncertainty due to the lack of 2019 and 2020 SRE decisions and the unknown 2021 RFS standards "make it practically impossible for small refineries to plan for compliance." This letter is available in the docket for this action.

<sup>9</sup> Most small refineries currently have pending 2019 SRE petitions before the agency. We are extending this flexibility to all small refineries because others may elect to submit petitions in the future.

As stated in the proposed rule, EPA will allow small refineries to revisit their compliance reports in the time period between finalization of this rule and up to the new compliance date for 2019 established by this rulemaking. This means that if a small refinery carried forward a deficit to demonstrate 2019 compliance by March 31, 2020, but later receives an SRE for 2019 or retires RINs<sup>10</sup> in accordance with its obligation, that initial decision to carry forward a deficit will not constitute a carry-forward deficit (i.e., failing to meet the requirement to retire sufficient RINs as described in 40 CFR 80.1427(a)(1)) that would make the small refinery ineligible to do the same for 2020 under 40 CFR 80.1427(b). Small refineries that did not submit a compliance report by March 31, 2020, will need to submit a compliance report to comply with the new November 30, 2021, compliance deadline, unless they receive an exemption for 100% relief of their RFS compliance obligations.

This deadline extension applies only to those parties who meet the definition of small refinery in CAA section 211(o)(1)(k) and 40 CFR 80.1441(e)(2)(iii) for the 2019 compliance year. Limiting the extension in this way is appropriate because only small refineries' compliance obligations are affected by the *HollyFrontier* case and it is consistent with our eligibility requirements regarding SREs. We recognize that in recent years we have determined that some parties who have petitioned for SREs have been deemed ineligible by EPA, often due to the refinery's throughput (i.e., more than 75,000 barrels of crude oil per day) or the nature of their business (i.e., not a petroleum refinery). The parties that EPA has found ineligible because they do not meet the definition of small refinery in recent years will similarly not be eligible for the compliance date extension for small refineries.

We note that all of the existing regulatory flexibilities for small refineries—including the ability to satisfy up to 20 percent of their 2019 RVOs using 2018 carryover RINs under 40 CFR 80.1427(a)(5) and the ability to carry forward a deficit from 2019 to 2020 if they did not carry

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<sup>10</sup> RINs, or renewable identification numbers, are credits generated by renewable fuel producers and used for compliance with RFS obligations. For more information about RINs, see <https://www.epa.gov/renewable-fuel-standard-program/renewable-identification-numbers-rins-under-renewable-fuel-standard>.



forward a deficit from 2018 under 40 CFR 80.1427(b)—will continue to be available to them to demonstrate compliance for 2019 on the new November 30, 2021, compliance deadline. This means that small refineries that carried forward a deficit for 2019 in their initial 2019 compliance reports (filed in 2020) can reverse that decision in new compliance reports and retain their ability to carry forward a deficit for 2020. It also means that small refineries that did not submit a 2019 compliance report by March 31, 2020, can also carry forward a deficit for 2020. Finally, small refineries can either carry forward a deficit for 2019 (if they did not do so for 2018) or for 2020 (if they do not do so for 2019). Due to the ongoing litigation, we take no position on the availability of SREs for the 2019 compliance year, but refer stakeholders to EPA’s announcement on February 24, 2021, regarding the *HollyFrontier* case.<sup>11</sup>

*B. Extension of the 2020 RFS Compliance Deadline for All Obligated Parties*

We are also finalizing the proposed modification of the 2020 compliance deadline for all obligated parties to January 31, 2022. We are doing so because EPA has not yet proposed the 2021 RFS standards, including applicable volumes, and we recognize the importance to obligated parties of planning their compliance for a given calendar year by understanding their obligations for the years before and after.<sup>12</sup> This is particularly true given the two-year “lifespan” for RINs, such that 2020 RINs can be used for compliance with either 2020 or 2021 obligations. Compliance obligations for 2021 will remain unknown until EPA finalizes the 2021 standards.

We are also modifying the 2020 compliance deadline to allow small refineries who have not yet demonstrated compliance with their 2019 obligations sufficient time between each year’s compliance obligation demonstration. Modifying the 2020 compliance deadline to a date after the 2019 compliance deadline for small refineries will allow for complete 2019 compliance by all obligated parties, including these small refineries, prior to having to demonstrate 2020

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<sup>11</sup> Available at: <https://www.epa.gov/renewable-fuel-standard-program/epa-signals-new-position-small-refinery-exemptions>.

<sup>12</sup> For discussion of obligated parties’ interest in such extensions in past actions, see 80 FR 33099, 33149 (June 10, 2015) and 78 FR 49794, 49823 (August 15, 2013).

compliance. Requiring full compliance with the 2019 standards prior to the 2020 compliance deadline will provide all obligated parties and market participants with an accurate picture of the RIN market, including the availability of 2019 carryover RINs to comply with 2020 standards.

We are finalizing the proposed 2020 compliance date of January 31, 2022, for all obligated parties. This deadline allows several things to occur prior to that compliance date. First, it allows small refineries to complete compliance with their 2019 obligations. Second, it provides 60 days between the 2019 and 2020 compliance deadlines to allow for obligated parties to make additional RIN acquisitions, transfers, transactions, and retirements prior to the 2020 compliance deadline. Finally, this deadline provides 60 days between 2020 and 2021 compliance deadlines, allowing the 2021 compliance deadline to remain on March 31, 2022, as currently prescribed in our regulations.<sup>13</sup>

### *C. Corresponding Attest Engagement Report Deadlines*

We are finalizing the proposed changes to the deadlines for attest engagement reports required under 40 CFR 80.1464(g) for small refineries for 2019 compliance demonstrations and for all obligated parties for 2020 compliance demonstrations. In addition, we are also adopting a change to the 2021 attest engagement reporting deadline for all obligated parties to ensure enough time for attest auditors to reasonably conduct the 2019, 2020, and 2021 attest engagement reports; this change is supported by stakeholder feedback on the proposed rule and consideration of the administrative complications that will accompany the attest engagement compliance and reporting deadline extensions being finalized in this rule. However, after consideration of public comments received, we are not finalizing the proposed changes to the 2020 attest engagement reporting deadline for RIN-generating renewable fuel producers, RIN-generating importers of renewable fuel, and other parties owning RINs, for the reasons explained below.

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<sup>13</sup> See 40 CFR 80.1451.

For small refineries, given the short period of time between when small refineries will have to demonstrate compliance with their 2019 and 2020 obligations, we do not believe it is feasible for them to conduct an attest engagement for 2019 between the new 2019 and 2020 compliance deadlines. Therefore, we are finalizing the requirement that small refineries conduct their 2019 attest engagement by June 1, 2022.

For all obligated parties, we are also finalizing that the 2020 attest engagement reporting deadline be June 1, 2022. We believe this will provide all obligated parties with the time necessary to conduct their attest engagements in a timely manner and on a similar schedule. Because attest engagements are based on the information in the previously submitted compliance reports, sequencing the attest engagement to occur after the compliance deadline is a reasonable approach. We believe that this sequencing of reports, and the time allowed between them, will allow obligated parties to proceed to demonstrate compliance with both their 2019 and 2020 RVOs in a logical and orderly fashion with all relevant information available and with sufficient intervening time so as not to pose an increased burden.

For the 2021 compliance year, we are extending the attest engagement reporting deadline for all obligated parties to September 1, 2022. We agree with feedback received from stakeholders who prepare attest engagement reports for obligated parties that it would be useful to stagger attest engagement deadlines to accommodate the staggered nature of the annual compliance deadlines and so as not to overwhelm auditors and processes for preparing and submitting reports.<sup>14</sup> This stakeholder highlighted concerns regarding the proposed requirement that the 2019 (for small refineries), 2020, and 2021 attest report deadlines would fall on the same date, which would almost certainly mean that the limited number of attest auditors that perform these services for obligated parties would not have enough time to perform the audits and

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<sup>14</sup> See “External Party Meeting Log for RFS Compliance Date Extension Rule,” available in the docket for this action.

prepare the reports, thereby creating an administrative bottleneck.<sup>15</sup> Another commenter recommended that we maintain at least 90 days between respective annual compliance deadlines and annual attest engagement reporting deadlines.<sup>16</sup> We agree with these comments and believe providing an additional three months for 2021 attest engagements will provide auditors a reasonable amount of time to perform the audits. This change also will not impact obligated parties' plans and actions to comply with their RFS obligations, since the attest engagements are after-the-fact reports summarizing those compliance measures.

In contrast, we do not believe that requiring small refineries to submit both their 2019 and 2020 attest engagement reports by June 1, 2022, will create much additional effort for attest auditors due to the relatively low number of small refineries and the fact that all other obligated parties have already submitted their 2019 attest engagement reports, which were due on June 1, 2020.

In response to public comment, we are not finalizing the proposed changes to the deadline for 2020 attest engagement reports for RIN-generating renewable fuel producers, RIN-generating importers of renewable fuel, and other parties owning RINs. A commenter stated that such a deadline extension was unnecessary because all the records and reports needed to perform the attest audits and prepare the attest engagement reports for these parties are already available and not dependent on the compliance deadlines for obligated parties. The commenter highlighted concern that attest auditors may already be stretched to provide sufficient time and resources to complete all audits in such a short window for obligated parties, and there was no need to compound this situation by extending the attest audit deadlines for these parties and we agree with these comments. Additionally, based on our experience overseeing compliance with reporting deadlines, we believe we should maintain existing reporting deadlines when possible, as this provides regulated parties with regulatory certainty. Therefore, we are maintaining the

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<sup>15</sup> See also comments from Weaver suggesting staggered attest report dates for 2019-2021 (Docket Item No. EPA-HQ-OAR-2020-0725--0011).

<sup>16</sup> See comments from AFPM (Docket Item No. EPA-HQ-OAR-2020-0725-0023).

2020 attest engagement reporting deadline of June 1, 2021, for RIN-generating renewable fuel producers, RIN-generating importers of renewable fuel, and other parties owning RINs.<sup>17</sup> We also encourage parties required to submit annual attest engagement reports to submit those reports early, if possible, as this may help attest auditors better sequence their work and ensure that reports are submitted on time.

Finally, we note that we intend to provide additional reporting instructions on our fuels reporting website for the attest engagement reports prior to the revised deadlines.<sup>18</sup>

We commonly post helpful and detailed information that will assist parties in submitting compliance reports, including attest engagement reports, to our website and we encourage them to use our website as a resource.

## **II. Statutory and Executive Order Reviews**

Additional information about these statutes and Executive Orders can be found at <http://www.epa.gov/laws-regulations/laws-and-executive-orders>.

### *A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review*

This action is not a significant regulatory action and was therefore not submitted to the Office of Management and Budget (OMB) for review.

### *B. Paperwork Reduction Act (PRA)*

This action does not impose any new information collection burden under the PRA. OMB has previously approved the information collection activities contained in the existing regulations and has assigned OMB control number 2060-0725 and 2060-0723. This action only makes a one-time change in the compliance dates for certain regulated parties and adjusts the due date of their compliance reports and attest engagements to reflect this change. It does not change the information to be collected or increase the frequency of collection.

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<sup>17</sup> See 40 CFR 80.1464(d).

<sup>18</sup> See <https://www.epa.gov/fuels-registration-reporting-and-compliance-help/program-specific-instructions-attest-engagements>.

*C. Regulatory Flexibility Act (RFA)*

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. In making this determination, the impact of concern is any significant adverse economic impact on small entities. An agency may certify that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, has no net burden or otherwise has a positive economic effect on the small entities subject to the rule. This action extends the RFS compliance deadlines. We do not anticipate that there will be any costs associated with these changes. We have therefore concluded that this action will have no regulatory burden for all directly regulated small entities.

*D. Unfunded Mandates Reform Act (UMRA)*

This action does not contain an unfunded mandate of \$100 million or more as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. This action imposes no enforceable duty on any state, local or tribal governments. Requirements for the private sector do not exceed \$100 million in any one year.

*E. Executive Order 13132: Federalism*

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

*F. Executive Order 13175: Consultation and Coordination with Indian Tribal Governments*

This action does not have tribal implications as specified in Executive Order 13175. This rule only affects RFS obligated parties. Thus, Executive Order 13175 does not apply to this action.

*G. Executive Order 13045: Protection of Children from Environmental Health Risks and Safety Risks*

EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks that EPA has reason to believe may

disproportionately affect children, per the definition of “covered regulatory action” in section 2-202 of the Executive Order. This action is not subject to Executive Order 13045 because it does not concern an environmental health risk or safety risk.

*H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use*

This action is not subject to Executive Order 13211, because it is not a significant regulatory action under Executive Order 12866.

*I. National Technology Transfer and Advancement Act (NTTAA) and 1 CFR Part 51*

This action does not involve technical standards.

*J. Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations*

The EPA believes that this action is not subject to Executive Order 12898 (59 FR 7629, February 16, 1994) because it does not create disproportionately high and adverse human health or environmental effects on minority and low-income populations.

*K. Congressional Review Act (CRA)*

This action is subject to the CRA, and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

### **III. Statutory Authority**

Statutory authority for this action comes from section 211(o) of the Clean Air Act, 42 U.S.C. sections 7545(o).

#### **List of Subjects**

#### **40 CFR Part 80**

Environmental protection, Administrative practice and procedure, Air pollution control, Diesel fuel, Fuel additives, Gasoline, Imports, Oil imports, Penalties, Petroleum, Renewable fuel, Reporting and recordkeeping requirements.

Michael Regan,

Administrator.



For the reasons set forth in the preamble, EPA amends 40 CFR part 80 as follows:

## **PART 80—REGISTRATION OF FUELS AND FUEL ADDITIVES**

1. The authority citation for part 80 continues to read as follows:

**Authority:** 42 U.S.C. 7414, 7521, 7542, 7545, and 7601(a).

### **Subpart M—RENEWABLE FUEL STANDARD**

2. Amend §80.1451 by adding paragraphs (a)(1)(xiv)(E) and (F) to read as follows:

#### **§80.1451 What are the reporting requirements under the RFS program?**

(a) \* \* \*

(1) \* \* \*

(xiv) \* \* \*

(E) For obligated parties that meet the requirements for a small refinery under §80.1441(e)(2)(iii), for the 2019 compliance year, annual compliance reports must be submitted no later than November 30, 2021.

(F) For obligated parties, for the 2020 compliance year, annual compliance reports must be submitted no later than January 31, 2022.

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3. Amend §80.1464 by adding paragraphs (g)(7), (8) and (9) to read as follows:

#### **§80.1464 What are the attest engagement requirements under the RFS program?**

(g) \* \* \*

(7) For obligated parties that meet the requirements for a small refinery under §80.1441(e)(2)(iii), for the 2019 compliance year, reports required under this section must be submitted to the EPA no later than June 1, 2022.

(8) For obligated parties, for the 2020 compliance year, reports required under this section must be submitted to the EPA no later than June 1, 2022.

(9) For obligated parties, for the 2021 compliance year, reports required under this section must be submitted to the EPA no later than September 1, 2022.

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[FR Doc. 2021-06336 Filed: 3/30/2021 8:45 am; Publication Date: 4/1/2021]